

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SOPHIE SZOPA,)
)
)
Plaintiff/Appellant,)
)
)
v.) Civil No. 05-1751
)
)
PRISCILLA WHITE,) Judge Hibbler
Appeals Team Manager,)
Internal Revenue Service)
)
)
Defendant/Appellee.)

**UNITED STATES' SUPPLEMENTAL
BRIEF REGARDING JURISDICTION**

Pursuant to the Court's August 17, 2005 Order, as modified for completeness on August 30, 2005, the Defendant/Appellee, by its undersigned counsel, hereby submits this supplemental brief regarding jurisdiction. By this reference, the United States incorporates the Facts set forth in the United States' Memorandum of Law in Support of its Motion to Dismiss, which was filed with the Court on June 16, 2005.

On August 26, 2005, Plaintiff/Appellant filed with the Court Exhibits to Supplement Plaintiff/Appellant's Brief (Exhibits).¹ Exhibit D of the Exhibits is the Notice of Determination, dated February 23, 2005, that Ms. Szopa received from the Internal Revenue Service. This exhibit provides the Court with competent proof that the Court lacks jurisdiction in the instant case because the taxes at issue are income taxes and not employment taxes. Specifically, on the first page of the Notice of Determination, in the second column, under "Tax Type/Form Number", "Individual/1040" is listed. A Form 1040 is a U.S. Individual Income Tax Return on

¹The Exhibits to Supplement Plaintiff/Appellant's Brief that the Plaintiff/Appellant filed with the Court on August 26, 2005 do not include a certificate of service and as of August 30, 2005, the undersigned trial attorney did not receive the exhibits in the mail.

which individuals report their income taxes. The third page of Exhibit D, which contains the heading "Attachment-Letter 3193, Notice of Determination", also shows that the Notice of Determination at issue in the instant case relates to income taxes and not employment taxes. Below the heading it is stated: "Type of Tax: Income Tax". Moreover, the Notice of Determination, in the second paragraph of the first page, specifically advised Ms. Szopa that she had thirty days from the date of the notice to file a petition for reconsideration with the United States Tax Court, which is the court that has exclusive jurisdiction over Collection Due Process Appeals relating to federal income taxes.

CONCLUSION

For the reasons stated above and in the United States' Memorandum of Law in Support of its Motion to Dismiss and the United States' Reply filed on July 29, 2005, this matter was brought in the wrong court so it is barred by the sovereign immunity of the United States and the district court is without jurisdiction over the matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that the foregoing UNITED STATES' SUPPLEMENTAL BRIEF REGARDING JURISDICTION has been filed with the Clerk of the Court using the ECF system and that I sent notification of such filing by depositing a copy in the United States mail, postage prepaid, this 30th day of August, 2005 addressed to:

Sophie Szopa
17825 Navajo
Tinley Park, IL 60477

s/Heather L. Richtarcsik
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